IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.5491/06
Narayan Singh Vs. Himmat Singh & Ors.

11.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri J.P. Gupta for petitioner.
Shri R.P. Vijay for respondents.

Heard learned counsel for the parties.

Although while passing the award, the Tribunal awarded a sum of Rs.2,34,000/- to be paid to the claimants but subsequently in the execution proceedings, the same Tribunal by order dated 2.6.05 awarded a sum of Rs.2,74,755/-, but the Tribunal while disbursing the amount has imposed a condition that the amount shall be ordered to be paid to the claimants only after the owner / driver of the vehicle involved in the accident furnishes a guarantee / surety to the effect that the amount shall be reimbursed.

Learned counsel for the petitioner has

relied on the various judgments of the co-ordinate benches of this Court wherein it was held that the aforesaid condition is unreasonable and unjustified and therefore that was waived. He relied on the judgments passed by various co-ordinate benches of this Court in Smt. Rama & Balwant Singh, S.B. Civil Writ Petition No.71/06, Banwari Lal Vs. Gopi Ram, S.B. Civil Misc. Appeal No.481/05, Sheoji Ram Mali Vs. The Judge, ADJ (F.T.) No.7, Jaipur & City & Ors., Kumari Nargis Vs. Karan Singh & Ors., S.B. Civil Misc. Appeal No.356/05 & Manju (Smt.) & Ors. Vs. Addl. District & Session Judge & Ors.

Learned counsel for the respondent submits that the direction for deletion of the aforesaid condition would prejudice their case in appeal which the insurance company may file against the aforesaid award. His apprehension appears to be wholly unfounded because the release of the amount as per the award in question would always been subject to

interim order that may be passed in appeal.

Having gone through the judgments passed by the various co-ordinate benches of this Court, I find myself in agreement with the view taken therein. The condition of making the payment of compensation to the claimants to depend upon the factum of security being furnished by the owner of the vehicle involved in the accident can neither be said to be justified nor reasonable.

The impugned condition is therefore ordered to be deleted and it is directed that the amount of compensation shall be forthwith released to the claimants subject to the scheme of investment etc. evolved by the Tribunal in the award.

The writ petition is accordingly allowed.

(Mohammad Rafiq),J.

Rs/-